No. 90-1244

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term 1990

THE STATE DEMOCRATIC EXECUTIVE COMMITTEE OF ALABAMA,

Appellant,

v.

THOMAS HAWTHORNE and EMORY NEWMAN, individually and on behalf of all other persons similarly situated, and ANDRE KEITH, et al., as Intervenor,

Appellees.

Appeal From The Three-Judge District Court In The Middle District Of Alabama

MOTION OF APPELLEES HAWTHORNE AND NEWMAN TO AFFIRM OR DISMISS

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March 1991

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QUESTIONS PRESENTED

Does Section 5 of the Voting Rights Act of 1965, 42 USC § 1973c, apply to changes in the method of selecting members of the governing body of a statutorily authorized state political party?

Does the application of Section 5 of the Voting Rights Act to the method of selecting members of the governing body of a statutorily authorized state political party contravene the First Amendment to the Constitution of the United States?

Does Section 5 of the Voting Rights Act apply to an affirmative action plan of a state political party by which blacks are appointed to the party's governing body after all other members of the governing body, black and white, are elected in the party's primary?

LIST OF PARTIES

The parties in the court below were as follows: Thomas Hawthorne and Emory Newman, individually and on behalf of all other persons similarly situated; Jack Hurley, in his official capacity as Chairman of the State Democratic Executive Committee of Alabama; State Democratic Executive Committee of Alabama; J. Holt Etheridge, Chairman of the Henry County Democratic Executive Committee; Henry County Democratic Executive Committee, as a committee and for all county Democratic executive committees similarly situated; the Autauga County Democratic Executive Committee; the Dallas County Democratic Executive Committee; and Democratic Party of the United States; and Andre Keith, for himself and all others similarly situated.

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Appellees.

Appeal From The Three-Judge District Court In The Middle District Of Alabama

MOTION OF APPELLEES HAWTHORNE AND NEWMAN TO AFFIRM OR DISMISS

Appellees Thomas Hawthorne and Emory Newman, individually and on behalf of all other persons similarly situated, move this Honorable Court to dismiss or affirm the judgment of the United States District Court for the Middle District of Alabama on the grounds set out below in this motion.

OPINIONS BELOW

The order of the three-judge panel entered on 20 August 1990 is reported as *Hawthorne v Baker*, 750 FSupp 1090 (MD Ala 1990) (3-judge court); it is also reproduced in the Jurisdictional Statement beginning at A-1.

The orders of the Court entered on 12 September 1990 and 21 December 1990 are reproduced in the Jurisdictional Statement beginning at A-17 and A-18, respectively.

STATEMENT OF THE FACTS AND PROCEEDINGS

This appeal arises from a motion for an injunction under Section 5 of the Voting Rights Act. The motion was filed in an existing suit attacking (under Section 2 of the same Act) the racially discriminatory procedures used by the Alabama Democratic Party to elect its central committee (the State Democratic Executive Committee). The Section 2 suit is still pending.

The appellees filed their original complaint on 17 April 1989, claiming that a new rule ("Drake I") of the State Democratic Executive Committee (hereafter the "SDEC") and the prior rules unlawfully diluted the voting strength of black voters who were Democrats. The SDEC submitted Drake I for preclearance, and the Attorney General objected to it in December 1989.

On the Saturday before trial began in January 1990, the SDEC adopted a revised rule ("Drake II"). Trial proceeded with testimony about the effect of the pre-April 1989 rules, Drake I, and Drake II. Drake II established a

three-step process for choosing members of the state committee. First, 210 members of the committee are elected in the primary. Second, the relative number of black and white voters in the primary is used to determine if blacks are underrepresented among the 210 members. Third, the blacks elected among the 210 pick any additional black members necessary.[1]

The appellant SDEC submitted Drake II for preclearance by the Attorney General on 9 March 1990. JS at 4.[2] The Hawthorne appellees filed a motion in their pending case to have the implementation of the new rule enjoined unless and until it was precleared under Section 5 by the Attorney General or the United States District Court for the District of Columbia.[3]

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[1] The appellees' Section 2 suit attacks this procedure and asks the Court to strike down the present system of malapportioned districts, which causes the underrepresentation of blacks among the 210 members elected in the primary.

[2] The SDEC claims that "the impetus for Drake II came from the ANSC to ensure that black representation on the SDEC fairly represented both organizations" – that is, the Alabama Democratic Conference and the Alabama New South Coalition, a non-partisan group. JS 4 at n. 5. This point is in dispute in the Section 2 proceeding, but has no practical significance in this appeal.

[3] Of particular concern to the Hawthorne appellees was the inclusion of the "loser eligibility" provision (referred to by the SDEC as the "qualification requirement"). Under this provision, to be eligible to run in the second round for the additional seats, a black candidate had to run for a first-round seat and lose. When the SDEC opened the qualification period for all seats in early March, the Hawthorne appellees were concerned that many black candidates would be encouraged to

(Continued on following page)

On 5 June 1990 – before Drake II had been precleared – the Democratic Party held its party primary, at which it elected 210 members of the State Committee. Under the provisions of Drake II, the turnout in this primary would be used to determine whether blacks were entitled to any additional seats and, if so, how many.

On 20 August 1990 the three-judge district court "enjoin[ed] enforcement of the new plan [Drake II] unless and until it is precleared." JS at A-11.

On 5 October 1990 the Attorney General precleared Drake II (as modified by the SDEC on 24 July).

REASONS THE MOTIONS SHOULD BE GRANTED

I. The appeal should be dismissed as moot because no decision of this Court will make any change in the status of the parties.

The SDEC's claim as to the August order is moot. The district court only ordered the SDEC not to enforce Drake

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(Continued from previous page)

run for the SDEC with the result that the black vote in racially mixed districts might be so fragmented as to frustrate the will of the black voters of the district. Since the Drake II amendment had not been precleared, the Hawthorne appellees were concerned that black candidates would be confused about whether they should run in order to preserve their chance for the second round.

While the district court never took any action to ameliorate this situation, the SDEC did notify the Attorney General on 24 July 1990 that it would not enforce the "loser eligibility" provision and modified its submission to reflect this fact.

II until it was precleared. At that time the SDEC had already submitted Drake II for preclearance, and later it was precleared. There would be no change in the status of the parties if the Supreme Court overruled the district court. The SDEC has pointed to no action that it was forced to take by the district court order that it would now undo if the district court were reversed.[4]

In effect, the SDEC is asking for an advisory ruling that it does not have to submit some of its future rule changes to the Attorney General.

II. The SDEC cannot appeal from the 21 December order because it prevailed.

The SDEC received a favorable decision from the three-judge court on its Motion for Clarification.[5] The SDEC has not explained what error it contends the district court committed in the December order or how that it would benefit if this Court reversed that order.

The SDEC cites 42 USC § 1973c as the basis of this Court's jurisdiction. JS at 2 n. 2. That statute provides in

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[4] "Counsel for the state committee informed this court at oral argument that its new plan [Drake II] has yet to be implemented in full and that the status quo is effectively still the 1983 plan." JS at A-11.

[5] "Accordingly, it is the order, judgment, and decree of the court, that the motion for clarification filed by the defendant State Democratic Executive Committee on October 12, 1990, be and it is hereby granted, to the extent that the state committee may now implement the new plan for selecting additional black members that was precleared by the Attorney General on October 5, 1990." JS at A-24.

pertinent part, "Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court." This Court has indicated that this provision is an analog of 28 USC § 1253. *Allen v State Board of Elections*, 393 US 544, 560-63 (1969).

Under 28 USC § 1253 the winning party may not appeal from its victory. *Perez v Ledesma*, 401 US 82, 87 n. 3 (1971). Thus, there is no jurisdiction over the appeal from the 17 December order.

III. The 17 January 1991 notice of appeal cannot properly apply to the injunction entered on 20 August 1990.

The Section 5 proceedings were conducted as a part of the original case, under the same case number, but before a three-judge court.

The three-judge district court entered an injunction on 20 August 1990. The SDEC filed a motion for clarification on 5 October 1990. The motion for clarification did not ask the Court to change any of the relief it had granted the appellees, but asked the district court whether it might apply Drake II retroactively in light of the 20 August order and the subsequent preclearance of Drake II by the Attorney General. The motion for clarification (without the attached preclearance letter) is reproduced beginning at A-7.

The motion for clarification asked, in effect, "Does the injunction prevent us from enforcing Drake II retroactively now that we have received preclearance?" The

motion for clarification was not a motion for a new trial or a motion to alter or amend the judgment, each of which would have to be filed within 10 days of the judgment. F.R.Civ.P. 59(b) and (e). The motion for clarification was most nearly analogous to a motion for relief from a judgment on grounds that the judgment had been satisfied by the preclearance of Drake II. F.R.Civ.P. 60(b)(5).

Under 28 USC § 2101, the SDEC would have had 60 days to file its notice of appeal – that is, until 19 October – if the judgment was final and 30 days to file if the judgment was interlocutory.[6] An appeal filed on 17 January 1991 would be untimely in either case.

The injunction issued on 20 August is not a final judgment because it did not "end[] the litigation on the merits and leave[] nothing for the court to do but execute the judgment." *Catlin v United States*, 324 US 229 (1945). The injunction of 20 August settled only one issue against one defendant, leaving the larger Section 2 question still to be decided against all the defendants and the relief as to the county Democratic executive committees to be determined. In such a situation, the SDEC had a 30-day window of opportunity to file an appeal from the *injunction* of 20 August; otherwise, it must wait until there is a final judgment against it in the Section 2 case, or until the three-judge court enters a final judgment under F.R.Civ.P. 54(b).

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[6] See also, Supreme Court Rule 18.1 which sets a 30-day limit.

IV. The appeal should be dismissed because the appellants failed to file their Jurisdictional Statement within the time allowed by the Rules of the Court after their appeal of 7 September 1990.

On 20 August 1990 the three-judge district court "enjoin[ed] enforcement of the new plan [Drake II] unless and until it is precleared." JS at A-11. The three-judge court entered an order only, not a separate judgment. The injunction required the SDEC to refrain from enforcing Drake II until it had been precleared. The SDEC filed its notice of appeal from that injunction on 7 September 1990. Under Supreme Court Rule 18.3, the SDEC was required to file a jurisdictional statement within 60 days, that is, by 6 November. It did not file its Jurisdictional Statement until 31 January 1991 – 86 days after the deadline. Nor did it obtain from this Court an enlargement of time for the filing of the jurisdictional statement.

The appellant states it failed to file the Jurisdictional Statement on time "upon advice of the Office of the Clerk of the U.S. Supreme Court." JS at 2. While the Jurisdictional Statement does not explain this statement, one of the SDEC's attorneys has stated to the district court that she received advice from a deputy clerk at the Supreme Court that a motion for clarification makes a final order non-final.[7] Later, this advice was amended to state that the motion for clarification only tolls the time for filing the notice of appeal, not the Jurisdictional Statement.[8] While the appellees were not privy to the conversations

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[7] Affidavit of Cynthia G. Lamar, 4 and 5. The Lamar Affidavit is reproduced beginning at A-1.

[8] Lamar Aff. ¶ 7.

Ms. Lamar describes, we believe that the most reasonable explanation was that she neglected to inform the clerk that the Motion for Clarification was not filed within ten days of the 20 August order. The SDEC admitted to the district court that its 5 October Motion for Clarification does not affect the time for filing the Jurisdictional Statement.[9]

Whether the order of 20 August is "final" or "non-final" is immaterial to this portion of the motion to dismiss. The SDEC could take an appeal from the 20 August order because it was "an order granting . . . , after notice and hearing, . . . [a] permanent injunction in [a] civil action, suit or proceeding required by [an] Act of Congress to be heard and determined by a district court of three judges," 28 USC § 1253.

Since the SDEC did take an appeal from the 20 August order, the Rules of this Court provide that it must file a timely Jurisdictional Statement or suffer a dismissal. Rule 18.5 of the Supreme Court. This Court should not allow the SDEC the luxury of dragging out the filing of the Jurisdictional Statement several months beyond the time allowed by the Rules.

V. The decision below should be affirmed because there are no substantial issues presented for review.

A. Drake II affects the right to vote and is covered by Section 5 of the Voting Rights Act.

Under Drake II, the Democratic primary serves several functions with regard to the selection of members of

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[9] Lamar Aff. ¶ 7.

the State Democratic Executive Committee. First, 210 members of the committee are elected in the primary. Second, the relative number of black and white voters in the primary is used to determine if blacks are underrepresented among the 210 members. Third, the blacks elected among the 210 pick any additional black members necessary.

A plan which combines members chosen in a primary with those elected by the popularly-elected members must be precleared. The plan affects the right to vote in the following ways: (1) the power of the 210 members is affected by the number of the additional members; (2) the number of the additional members is a direct result of the number of voters of each race who vote in the Democratic primary and the number of members of each race elected among the 210; (3) the primary chooses those who will elect the additional members; and (4) fair representation can only be judged by analyzing all the members of the committee, not just the popularly-elected members.

B. The SDEC has no First Amendment right to discriminate on the basis of race.

Section 5 does not dictate how the SDEC must associate with other Democrats or choose its members except that it prohibits a plan which denies or abridges the right to vote on account of race.

The SDEC's contention that internal Democratic Party affairs do not relate to the electoral process is fundamentally wrong. The appellees did not ask the district court to tell the Democratic Party that it must associate or not associate with particular persons, or endorse or

not endorse particular policies. Rather, all the appellees sought in this action was a review by the Attorney General to ensure that black Democrats were not being deprived of fair representation – so they are able to participate in internal party policy and operational decisions. Such a claim implicates only Fifteenth Amendment voting rights and leaves the Democrats' First Amendment associational rights in the political process undisturbed.

CONCLUSION

For the reasons set out above, this appeal should be dismissed or affirmed.

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APPENDIX

IN THE UNITED STATED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

THOMAS HAWTHORNE and EMORY NEWMAN, individually and on behalf of all other persons similarly situated,	)	
Plaintiffs,	)	
v.	)	
JOHN BAKER, in his official capacity as Chairman of the State Democratic Executive Committee of Alabama; STATE DEMOCRATIC EXECUTIVE COMMITTEE OF ALABAMA; J. HOLT ETHERIDGE, Chairman of the Henry County Democratic Executive Committee, HENRY COUNTY DEMOCRATIC EXECUTIVE COMMITTEE, as a committee and all county Democratic executive committees similarly; and DEMOCRATIC PARTY OF THE UNITED STATES,	)	CIVIL ACTION NO. CA 89-T-381-S
Defendants.	)	

AFFIDAVIT

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

Before me, the undersigned, appeared Cynthia G. Lamar, the Affiant, and testified under oath the following:

1. On September 7, 1990, defendant SDEC filed a Notice of Appeal in this Honorable Court noting its appeal to the Supreme Court of the United States of this Court's August 20, 1990 order.

2. In early October, 1990, in a telephone conference in which all parties were represented, the Honorable Myron Thompson requested of defendants that they file a Motion for Clarification to address certain ambiguities and/or unresolved issues regarding the application and effect of this Court's August 20, 1990 order.

3. On October 12, 1990, counsel for defendants filed a Motion for Clarification pursuant to the Court's request.

4. After filing the Motion for Clarification, I questioned whether the filing of the Motion for Clarification rendered this Court's order of August 20, 1990 no longer a final order that was properly appealable. Having received no ruling on the Motion for Clarification in early November and desiring to ensure that the August 20, 1990 order indeed was not final until such a ruling was received, I called the Clerk's office of the Supreme Court of the United States. A deputy clerk whose name I did not record assured me that a Motion for Clarification indeed rendered an otherwise final order nonfinal and tolled the time for filing the jurisdictional statement. I was told that no pleading need be filed with the Supreme Court regarding the tolling of the time for filing the jurisdictional statement.

5. On November 7, 1990, having received no ruling on the Motion for Clarification, I called the Clerk's office of the Supreme Court and inquired again whether there

was any pleading or informal document that Appellant SDEC could file with the Supreme Court to signify that the appeal had not been abandoned but rather that Appellant was awaiting the final order of the District Court. After speaking with several employees of the Clerk's office who assured me that no pleading need be filed, I was transferred to a Mr. Larson who stated the following: (1) under *Communist Party of Indiana v. Wit-comb*, 94 S.Ct. 656 (1974), the Motion for Clarification automatically tolled the time for filing the jurisdictional statement; (2) as an exercise of caution, and to clarify the written record, it could not hurt to file a Motion for Extension of Time stating that the District Court had suggested that Appellant file a Motion for Clarification with copies of the motion and the now interlocutory order of the District Court attached; (3) the Motion for Extension of Time, although not a requirement, would clarify for any person reviewing the file that the time for filing the jurisdictional statement had been tolled.

6. I prepared the Motion for Extension of Time as instructed by Mr. Larson and filed it November 9, 1990.

7. On November 19, 1990, I received a letter from the Supreme Court Clerk's office over the signature of Suzy McDivitt informing me that our Motion for Extension of Time could not be granted because it was untimely. I immediately telephoned Ms. McDivitt who transferred me to Mr. Larson. Mr. Larson told me that, contrary to our November 9 conversation, while the appeal itself was tolled by the filing of a Motion for Clarification, the time for filing a Motion for Extension of Time had not been tolled by the filing of the Motion for

Clarification and that thus, since the Motion for Extension of Time had been received by the Court more than sixty days after the filing of the Notice of Appeal, the Motion for Extension of Time was untimely and could not be granted.

8. In this same conversation on the 19th of November, I asked Mr. Larson whether the fact that the Motion for Extension of Time could not be granted meant that the jurisdictional statement was now past due. Mr. Larson responded that the jurisdictional statement could not be due until there was a final order in the case but that nevertheless, no Motion for Extension could be granted preserving Appellant's position for the record.

9. I expressed to Mr. Larson that it seemed that Appellant was in a catch-22 situation because if Appellant filed immediately its jurisdictional statement in response to the denial of the Motion for Extension of Time, it would appear to be abandoning its position that the Motion for Clarification rendered the August 20 order nonfinal and tolled the time for appeal. On the other hand, if Appellant awaited the District Court's ruling on the Motion for Clarification, Appellee might file a Motion to Dismiss the appeal. Mr. Larson assured me that the appeal itself was timely because the Notice of Appeal had been filed within 30 days in accordance with Rule 18 of the Rules of the Supreme Court of the United States, and suggested that I await the District Court's ruling on the Motion for Clarification so that the jurisdictional statement would encompass the District Court's order in final form. Mr. Larson also reminded me that while the timely filing of a Notice of Appeal is a statutory requirement for an appeal to the Supreme Court, the sixty day rule for the

filing of a jurisdictional statement is a rule of Court and not jurisdictional.

9. Also in this conversation of November 19, I asked Mr. Larson whether it would be acceptable for Appellant SDEC to file another Notice of Appeal when the Motion for Clarification was ruled upon to ensure that one or the other of the appeals was timely, whether or not the District Court agreed with Appellant that the Motion for Clarification rendered the August 20 order nonfinal. Mr. Larson responded that the August 20 order was indeed nonfinal, but that he understood Appellant's predicament and that there would be nothing wrong with filing another Notice of Appeal after the Motion for Clarification was ruled upon. Mr. Larson stated that he had never faced a similar situation and would not express an opinion whether Appellant should file a jurisdictional statement in each appeal once the Motion for Clarification had been ruled upon or whether Appellant should simply file one jurisdictional statement along with a Motion to Consolidate.

10. On November 19, 1990, Appellees filed a Motion to Dismiss the appeal in this Court.

11. On November 26, 1990, the SDEC forwarded to the chambers of the Honorable Myron Thompson a copy of its Motion for Extension of Time to the Supreme Court which stated SDEC's position that the appeal had been tolled by the Motion for Clarification.

12. On December 21, 1990, this Court ruled on the Motion for Clarification. Now that there is a final order in the case, counsel to the SDEC intend to file a jurisdictional statement in the September 7 appeal addressing

this Court's order in final form. We also intend to file another timely Notice of Appeal and the same jurisdictional statement therewith, along with a motion to the Supreme Court requesting in the alternative that the appeals be consolidated, considered separately or that one or the other be dismissed for the sake of judicial economy. In my opinion, these intended actions are in accordance with the instructions I received from the Supreme Court Clerk's office.

Further the Affiant saith not.

/s/ Cynthia G. Lamar
CYNTHIA G. LAMAR,
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME THIS 4th DAY OF January, 1991.

/s/ Susan C. Williams
Notary Public

My Commission
Expires: 5/1/93

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

THOMAS HAWTHORNE and EMORY NEWMAN, individually and on behalf of all other persons similarly situated, Plaintiffs, v. JOHN BAKER, in his official capacity as Chairman of the State Democratic Executive Committee of Alabama; STATE DEMOCRATIC EXECUTIVE COMMITTEE OF ALABAMA; J. HOLT ETHERIDGE, Chairman of the Henry County Democratic Executive Committee, HENRY COUNTY DEMOCRATIC EXECUTIVE COMMITTEE, as a committee and all county Democratic executive committees similarly situated; and DEMOCRATIC PARTY OF THE UNITED STATES, Defendants.	*	CA 89-T-381-S (3-Judge Court) [Filed 12 Oct 1990]

MOTION FOR CLARIFICATION

COMES NOW defendant the State Democratic Executive Committee (SDEC) and requests the Court to enter an order clarifying its August 20, 1990, order "enjoining enforcement of the new plan unless and until it is precleared." *See* order at 16. For grounds, defendant shows as follows:

(1) On October 5, 1990, the United States Department of Justice precleared the SDEC's submission of the Figures Amendment "with respect to implementation for the 1990-1994 term of the SDEC." *See* preclearance letter at 2 (attached as Exhibit A).

(2) On October 10, 1990, the SDEC filed notice of preclearance with this Court and requested the Court to issue an order lifting the Court's injunction against enforcement of the Figures Amendment pursuant to its August 20, 1990, order enjoining enforcement "unless and until [the new plan] is precleared."

(3) The SDEC takes the position that it should now be permitted to organize forthwith for the 1990-1994 term of the SDEC under the terms of the Figures Amendment.

(4) However, in the conference call held October 12, 1990, plaintiffs' lawyer argued that because the Figures Amendment has a date for implementation that has already passed ("at the organizational meeting in 1990, the minority caucus shall meet two hours before . . . ," *see* Exhibit B), the amendment cannot be implemented at all during the 1990-1994 term of the SDEC and, therefore, the 23 add-on members selected this year by the ADC should serve (subject to the Court's Section 2 decision). The SDEC's implementation of the amendment using *different* dates, according to Mr. Blacksher, would be a new change requiring preclearance. Although Mr. Seay was not prepared at the time of the conference call to make a statement on behalf of the Keith intervenors, this pleading assumes that he would take a position similar to that of Mr. Blacksher.

(5) Defendant submits that plaintiffs' lawyer's position cannot be maintained consistently with his suggestion in the conference call that plaintiffs' motion to amend to conform to the evidence, which would have attacked the use in 1990 of the rule allowing all add-ons to be selected only by the ADC, is now moot. Nor is his position consistent with plaintiffs' motion to amend itself (which claims that said rule "denies a segment of the black Democratic electorate an effective, equal opportunity to be elected to an add-ons seat"), or with plaintiffs' lawyers' representation of the plaintiff class, not just the ADC.

(6) Defendant further submits that it is not uncommon for a provision or act that actually receives preclearance *after* the effective date specified in its text nevertheless to become effective in substance on the preclearance date (e.g., the Fair Campaign Practices Act).

(7) Finally, defendant submits that this Court has ample equitable discretion, in its formulation of a complete remedy in the Section 5 proceeding, to order the SDEC to waive the requirement that add-on seats for the 1990-94 term be filled two hours before the SDEC's 1990 organizational meeting, or to make appointments retroactive to that time. To deprive all elected black caucus members of the opportunity to participate in selecting the add-on members for the 1990-94 term would render the Justice Department's preclearance meaningless and deny equity to black voters.

Accordingly, the SDEC respectfully requests this Court to enter an order clarifying its order of August 20, 1990, to indicate that the SDEC is now authorized to

convene a meeting of its black caucus, as that term is used in the Figures Amendment, to select and seat add-on members for the 1990-94 term and conduct other business as provided under the amendment. Defendant respectfully requests that the Court's order make clear that the requirement that this meeting take place two hours before the SDEC's organizational meeting in 1990 is thereby waived.

Respectfully submitted this the 12th day of October, 1990.

/s/ Susan E. Russ
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